

A

L E T T E R

T O A

Member of Parliament,

Concerning the L A W S which disable

P A P I S T S

From purchasing in this KINGDOM.

THE SECOND EDITION
WITH NOTES.

D U B L I N :

Printed and Sold by the BOOKSELLERS,
MDCCLI.

A D D E N D U M.

[At the End of the Note in Page 4.]

THE Bull of Pope PIUS V, *deposing Queen ELIZABETH, absolving her Subjects from the Oaths of Allegiance, and anathematizing such as continued in their Obedience,* is a glaring Proof how far the Popes have carried their Dispensations; as the rebellious Behaviour of the Papists, in *England and Ireland*, consequent thereon, shews their Opinion of them. This Proceeding has never been disclaimed by any solemn or authentic Act of the Church of *Rome*: And indeed, how can it be disclaimed, without giving up the Doctrine of *Infallibility*? The Bull is printed at large, 2 Vol. of *Burn. Hist. Reform.* App. 291.

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Member of Parliament, &c.

DEAR SIR,

IN a Conversation we had this last Summer at *****, about the State and Condition of the Popish Interest in this Kingdom, I expressed my apprehensions of the danger which may attend the doing any thing to weaken the Acts made in *Queen Anne's* Reign, to prevent the Growth of Popery; especially that part of them which restrains Papists from purchasing. Company coming in Interrupted the Conversation at that time; and Accidents afterwards prevented it's being resumed while I stayed in the Country. At parting, you engaged me to send you my Sentiments on this Subject. I now sit down to acquit my self of the Promise; and so, without further Introduction, I hope, that Excusing inaccuracies, you will take my thoughts, as follows.

POPERY being little else than a mere system of Politics, the Foundation of which is Allegiance to a Foreign Prince, Papists have no right to claim Protection from the Magistrate of any Country, which does not belong to, or depend on, that Prince; and consequently they are not intitled to

a Toleration in Protestant States *. In strict Justice, the Magistrate may Remove them; surely then, if

* Some Persons have been offended at this Position, and have endeavoured to misrepresent it. But even a small Acquaintance with the Doctrines of the Church of *Rome*, will convince us, that most of them are merely political, and have been invented to place *real* temporal Power in the Hands of certain Men, independent of Civil Government. For instance, the Celibacy of the Priesthood, is to keep it free from the social Ties of Families.—Transubstantiation (ridiculous as it is) must in those, who can fancy they believe it, raise a most awful Veneration for, and consequently, a suitable Submission to, the Person who can turn *Wafers* into *Deities*. What *real* Power does the Doctrine of Confession give the Priesthood? And how weak a Stand can Civil Laws, or even moral Obligations, make against that of *Absolution*, or *Dispensations*, given by *Human Creatures clothed with Infallibility*? What Dependence therefore can there be on the most awful, the most solemn, Professions of Allegiance to the Civil Magistrate, from Persons who are of Opinion that another Man has Power, to dispense with, or transfer, these Obligations? In Truth, the Allegiance professed to the Civil Magistrate can be but Words; for the *real* Allegiance is to the Person, who, they think, can dispense with, or transfer the Obligation: And who, as to all States which do not belong to, or depend on, *ROME*, is a foreign Prince: Consequently, Protection and Allegiance being reciprocal, such *precarious* Subjects cannot have a Right to the Civil Magistrates Protection, to whom they cannot pay a true and *real* Allegiance: And his Toleration of them is merely a Matter of Favour. Though this is certainly true, the Writer of this Note does not expect to convince Papists on the Point; His Intentions will be answered, if unwary Protestants are put upon their Guard, against the Insinuations of popish Authors, who, the better to disguise themselves, and deceive others, can sometimes assume the Character of free and modest *Inquirers*. A stale Artifice!—But when their *Masks* are taken off, they may write on *unbeeded*.—The Extent of the Doctrine of Dispensations, and the Revenue arising therefrom, may be judged of by the Taxes of the *Roman Chancery*, which have been often printed with the Pope's Privilege, particularly in the Year 1520. I have seen an Extract, or Translation, of this Book in English, printed in *London* for *M. Cooper*, in the Year 1746; under the Title of *TAXA CAMERÆ*: it is a small Pamphlet, and well worth Perusal. One of the authentic Books now, is, or lately was, in *St. Sepulchre's Library*, among the Books which formerly belonged to *TANAQUILL FABER*.

if he permits their stay, he may qualify that Indulgence, by such restrictions on their Property, as Political prudence may suggest ; nor have they Reason to expect any other Favour, than a Free Enjoyment of their Opinions merely Speculative, and the Exercise of their forms of Worship, and such parts of their Religion (if such there be) as may be separated from their Politics. They may, and shou'd, be indulged in their *Nugæ*, while they do not lead the State *Seria in Mala*.

THUS the Question of Tolerating Papists in Protestant States, is not a Question of Religion, but of Politics ; which each State must determine for itself, according to the Circumstances of its Constitution.

THE Rule may be laid down generally, that Power attends the Ballance of Property in Land. This Rule admits of some Exceptions, but they are only in Cases, where the Territories are very small, and bear no Proportion in Value to the Riches of the Country ; as for instance, in *Holland*, *Genoa*, and some other Places : But where the Territories are large, as in these Kingdoms, the Rule will hold strictly. History will inform us, that all the Wars and Rebellions, in this Country, have been raised and carried on by a Landed Interest : And the late Rebellion in *Scotland* was raised and carried on by the same means. It is a plausible Argument, that a Moneyed Interest among disaffected Persons may do more Mischief than a Landed one, as it is of such ready Use :

But 'tis to be considered, on the other hand, that this Interest cannot well be managed without Paper, and Credit, which is liable to a thousand Accidents, and in case of disturbances, generally sinks and fails ; but even supposing it Escapes these Chances, whatever Advantage it has in quickness, it falls infinitely short in point of Duration and Permanence : Wou'd the Purchase of the Estates of the Rebel *Highland* Chieftains in Money, have been able to raise such a Scene of Commotion as the Connexion between the Landlords and Tenants did ? it certainly could not. A small Acquaintance with the History of this Country will convince us, that the Connexions between Chief and Clan, were no less strong in this Kingdom *.

AFTER Millions of Lives lost, Millions of Money spent, and numberless Forfeitures incurred, the Popish Interest had Art enough to preserve it self surprizingly strong ; nor indeed, did it suffer any considerable diminution, 'till the Year 1704, when a truly Patriot Parliament, convinced of the Truth of this great Maxim, planned out the only Effectual Scheme for taking the power out of Popish Hands. For the passing this Act
Protestants

* And I doubt not, if Occasion offered, we shou'd find them so again ; For the old *Irish* Proprietors are well known, and though in very poor Circumstances, have a great Influence over the common People, who are trained up in a Belief of their Right, and an Expectation of their Restoration. So that it may be truly said in this Kingdom, the bare Expectation of a Landed Property creates a Connexion, and Dependence, which are far from inconsiderable.

Protestants of all denominations United ; though there had been a Clause Artfully thrown in, to divide them. But, their Virtue stood firm ; and many of the Northern Members laid themselves under personal disabilities, in order to preserve the Public, and their Country, on this occasion.

By this Law, Papists were disabled from purchasing, and the Estates they had were to Gavel on their Deaths, unless the Heir conformed.

NUMBERLESS were the Arts to Elude this Law ; almost all the Papists in the Kingdom executed Settlements, in one Day, to postpone the Operation of the Gavel, for one Generation : And to evade the Restraint on purchasing, they had Recourse to all the Methods of Trusts, and Confidence.

SOON after (8 *Ann.*) the Legislature shewed, they were not to be thus treated and trifled with. These Settlements were set aside, and a Discovery given as to purchases ; which indeed, a Discovery is the only Rational and Effectual means of preventing.

FROM this time, the quiet, and tho' slow, yet sure Operation of these Laws, especially in the latter part, has turned the Ballance of Landed Property in favour of the Protestants. I say the latter part especially ; for the Supply being stopped, as the Papists had Power to Alien to Protestants, this must, in the ordinary Course of Things, have drained their Landed Property. And I believe we are more indebted to this Cause than even to the Gavel.

THE many attempts in various shapes and disguises, which have, from time to time, been made, in favour of the Papists, to Enervate these Laws, are sufficient, one wou'd imagine, without any thing more, to convince any reasonable Man, that these Acts are the PALLADIUM of the Protestant Interest in this Kingdom.

THE Scheme of these Laws consists of two parts : 1. The breaking the Landed Interests of Papists then in being : 2. The hindering them from acquiring any more ; which last then was, and still is, the subsisting Law in *England*. The first of these purposes is, in some measure, Answered by Alienation and the Gavel, though not so fully as might be wished and expected. But to think of removing this last Restraint, while the former part of the Law about the Gavel continues, carries in it something extremely inconsistent, if the Real meaning of those, who are for such an Alteration, be to put the Lands into Protestant hands. It is in reality giving the Lands to Papists in this Generation, in hopes the next may be Protestants. The present Evil is certain, and the future Benefit but Contingent.—The first part of the Law, 'tis said, has answered its Ends. Suppose it so (though I do believe that is yet very far from being the Fact) then the Argument stands thus, “ Here is a Law made to remedy an
“ Evil ; it has done so, therefore we must provide a supply of the Evil, that the Law may
“ still have something to Operate on”. This
surely

surely is bad Logic, and worse Politics ! The common Cottager can tell you, that to drain the Lake, you must not only lade out the collected Water, but also stop or divert the Supply.

THE Gavel Clause has been much evaded ; and though undoubtedly there have been and are many honest and truly sincere Conversions ; yet most Mens own Observation must have furnished them with Instances, where the Conversions have not been free from Suspicion, and cannot be satisfactorily depended on, for, perhaps some Generations.

WHERE Laws are confessed to be Useful, 'tis surely imprudent to make any Alteration, at least before the Evil they were intended to Remedy, is entirely removed. And the most zealous Advocates for Popery cannot pretend that to be yet the Case. Even exclusive of this great Consideration, the Arguments used for an Alteration of these Laws are weak and Inconclusive ; and the Nation cou'd receive no Advantage thereby, though the Papists, and Persons who have large Tracts of Land to Set, or are Land-jobbers, might possibly find a particular Benefit.

THE first Pretence is, that the Country wants People ; and that there are large Wastes, which we cannot hope to see improved, but by letting the Papists into them *.

THAT

* This is the Scheme of *the Seasonable Thoughts*, &c. the Author of which, I suppose, hopes it would bring us Papists from *England*, where they are restrained from Purchasing, and where the Importance of the Restraint is too well understood to allow them any Hopes of getting it off.

THAT the Country wants People, is a melancholy Truth : But how this Scheme will remedy that Evil is beyond my Comprehension, as I do not see how it would make them more fruitful : The Papists, do at present, marry earlier, and have more Children, than it is likely they would in better Circumstances ; Encouragement to foreign Protestants, to come and settle, would be a much more likely Method ; and in Favour of such a Scheme it may be observed, that we are indebted to foreign Protestants for our most material Manufactures, particularly in the Linen Branch.—Nor is the latter Part of the Argument more happy. That the Wastes must be improved by Papists, or not at all, is a vicious *Dilemma* ; the Disjunctive is defective. All Methods should be first tried, before the Papists can, with any Modesty, prefer their Pretensions. When all Distinctions which disunite Protestants at Home are taken off ; when all Encouragement has been given to foreign Protestants to come among us ; it will be then time enough, to take the Papists Claim of Merit into Consideration ; and then perhaps, Prudence may suggest, that it is better to keep our Houses empty, than set them to Tenants, who may destroy them, or betray the Possession.

THE Number of Papists is artfully diminished, and made very inconsiderable : But they are surely above three (if not four) to one of the Protestants through the Kingdom. But though the Number were not so large ; yet while it bears any

any considerable Proportion to that of the Protestants, it cannot affect the Argument.

WITH no less Art are their Trade and Riches magnified ; which certainly are under what is generally represented ; but wou'd soon increase to a much greater Proportion, were they admitted into Land.

THE Example of other Countries is produced against us, and it is said *France* allows the Hugonots to purchase real Property, and will not suffer them to alien it. I do not know how this Fact is ; But supposing it true, the Cases are by no Means parallel. Protestants may be good Subjects in a Popish State, for they can pay complete and full Allegiance to the Civil Magistrate, in all Matters of Society and Civil Government : But this the Papists cannot do to Protestants, for their Temporal Allegiance is at least divided with the Pope, and they are at best but half Subjects. Besides, the Hugonots in *France* bear a very inconsiderable proportion to the Body of the People, whereas our Papists vastly exceed us.

THESE are my Reasons, for hoping that these Laws will, for many Years to come, be esteemed the sacred MAGNA CHARTA of the Protestant Constitution of this Country.

No House of Commons has ever shown a more steady, firm, and inviolable Attachment to the Protestant Interest of this Kingdom, than the present House hath done. I need not mention Instances to one who has been so long a Member : But I assure you, there is not any, for which
We

We are more obliged to them, than for the Publication of the Heads of a Bill, brought in last Sessions, to enable Papists to purchase, under the Notion of taking long Leases. You best know how this very Bill was brought in some Years ago, and how it was then treated! The Publication shews a Determination in the House not to alter these Laws without great Deliberation. It seems to me intended to give the Constituents an Opportunity of considering these Heads with the Attention they deserve; and to invite the urging, with due Deference and Freedom, all Objections which lie against them. I shou'd therefore think I had very imperfectly performed my Engagement to You, if I should close this Letter, without giving my Thoughts on this Bill.

THE first Part of the Title of the Bill is to encourage Papists to turn Protestants; and yet, I must confess, I cannot see any Thing in the enacting Part to answer this End. That Papists should be enabled to take long Leases, is well taken care of. The Provisions for their turning Protestants, though specious, will, on Examination, appear to be altogether defective. The Bill recites the Act of the Second of Queen *Anne*. But it does not recite that of the Eighth which gave the Discovery, without which, Experience had shewn, the former Law to be ineffectual: And yet the Bill is to repeal the 8th of Queen *Anne*, for the Discovery, as well as the 2d, for the Prohibition. The Bill recites, that the Gavelling Clause had proved of great Use; could one after
this

this imagine that there is not a Word about the Gavel in the enacting Part? Which is framed upon an intirely different Plan, (*viz.*) That of giving the interest to the conforming Child, and if no such conforming Child, to the conforming collateral Relation; and if no such, then that it should revert to the Landlord.

THE first enacting Clause is, that which enables Papists to take Leases for any Number of Lives or Years, at a Rent not less than two Thirds of the Value: But as this Bill does not give a Discovery, and as there is no Restraint of pleading or demurring to such a Bill, however specious this Restriction seems to be, it will in Reality be found a verbal Restriction only: The other Methods of Proof being so difficult, uncertain, and admitting of such Latitude, that there is little Probability of Purchases being avoided on this Article.

THE next Clause requires Leases of above seven Years to be registered, and prohibits their being taken in Trustees Names: And the Sanction of both these Restrictions is the making the Lease void. Here is no Discovery either: And suppose the Landlord does not chuse to break his own or his Father's Grant, he is under no Obligation, and as the last Clause secures the Remedies for his Rent at all Events, he may be under no Temptation, to break it. Experience between the first and second popery Laws, shew'd of what little Significancy it was to declare the Interest void; and therefore the Bill of Discovery was introduced,

ced, which made it the Interest of some particular Man to punish the Papists Transgression of the Law. And there were Provisions against pleading or demurring to the Bill.

HITHERTO then, the Restrictions may justly be called a dead Letter. Let us now pass to the third, fourth, and sixth Clauses, which must be considered together. These are the Clauses which take Care of the conforming Children and Relations. They give the Interest on the Lessee's Death, to the conforming Child, or collateral Relation, &c. and prohibit Alienations to any Relation not a Protestant: The Beginning is fair; But go a little farther, and you will find, in the Body of a long Paragraph, a Proviso (not indeed in express words but in Effect and Substance) which allows all Alienations for good and valuable Consideration of Money; the Consequence of which is, that if a Papist pleases, he may sell to his popish Son, and he to his Son, or collateral Relation, and so on, for ever. If the Son wants Money, the Father may give it to him: Or the Son may borrow it from a Friend. Being thus in Possession of the Money, he may pay it, on the Purchase, to the Father, before the Witnesses to the Deeds: And then, if the Money was not the Father's own, it may be privately returned to the right Owner. This, 'tis true, is all a Collusion, but how can it be detected, as there is no Bill of Discovery, and how can the Lessor come at the Fraud? Besides; Difficulties will arise on the Point

Point of what is to be reckoned a valuable Consideration: though other Laws have determined it, I don't know that our Law has settled any precise Rule in this Matter. By this Means the Land may continue in the popish Family without Conformity; nay, indeed the Child may become so dependent on his Father, as to forbear disobliging him by a Conformity, for fear of some such Alienation in favour of another Child or Relation. How does this correspond with the Title of the Bill? Is a Liberty of purchasing, without any Restrictions, an Encouragement to Conformity? Yet such only can be the Encouragement of this Bill. There is another Circumstance I cannot avoid taking Notice of. Though the Papist leave ever so many Sons, and they all conform in Time, the eldest is only to take. Now in such Case, why should the Law as to Terms, which gives to all the Children equally, be altered, if Conformity only be intended?

THE Provision about Guardians is of little Use. Applications for appointing Guardians to Papists are seldom made: and it is notorious many act in that Capacity, without Appointment, and who are prohibited by Law.

THE seventh Clause gives an Advantage to popish Wives which Protestant Women do not enjoy, *viz.* a Sort of Dower out of these Interests.

THERE

THERE is also a Proviso enabling Papists to make voluntary Settlements, and Dispositions, of these Interests, to Protestants. Then they may, I presume, be made in Trust for Papists; for the Clause, making the Leases void when taken in Trust, seems only to extend to the first taking, not to the subsequent Dispositions.

THE Case of Leases in Reversion is not mentioned. What the Meaning of *Representative Lessor* is, I cannot divine: And indeed there seem so many Omissions, Intricacies, and Obscurities in the several Parts of this Bill, as to explain and clear them, might give full Employment to our Courts of Justice, for these many Years to come; and this surely is a very indifferent Way of promoting Industry, and the Improvement of the Country.—But it is Time to put an End to this Letter, by assuring You, that I am with true Regard,

Your most

Obedient,

Humble

Servant.

DERRY, *August*
18, 1751.



